

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**JOSEPH ABRUSCATO; HARRY G. BODIN,
JR.; and JESSIE and MARY FLOYD,**

Plaintiffs,

v.

**AMERIQUEST MORTGAGE COMPANY,
INC.; AMC MORTGAGE SERVICES, INC.;
ACC CAPITAL HOLDINGS CORPORATION;
CITI RESIDENTIAL LENDING, INC. and
CITIFINANCIAL MORTGAGE,**

Defendants.

CASE NO: 1:08-cv-00405-B

DEFENDANTS' MOTION TO STAY AND FOR EXTENSION OF TIME

COME NOW the defendants, Ameriquest Mortgage Company; AMC Mortgage Services, Inc.; ACC Capital Holdings Corporation; Citi Residential Lending, Inc. and Citifinancial Mortgage ("defendants"), and, pursuant to Rule 6(b), Fed. R. Civ. P., hereby move this Court to stay this matter pending its anticipated transfer by the Judicial Panel on Multidistrict Litigation to the Northern District of Illinois for consolidated pre-trial proceedings. In connection with the requested stay, the defendants seek additional time to Answer or otherwise respond to the plaintiffs' Complaint. In support thereof, defendants state as follows:

1. On or about July 17, 2008, counsel for Ameriquest Mortgage Company submitted a Notice of Potential Tag-Along Action ("Notice") with the Judicial Panel on Multidistrict Litigation. A copy of the Notice is attached hereto as Exhibit "A." By way of the Notice, Ameriquest Mortgage Company requested that the Judicial Panel transfer this matter to the Northern District of Illinois.

2. In considering whether to stay proceedings pending transfer by the Judicial Panel, the United States District Court for the Southern District of Alabama has stayed proceedings in similar matters after considering "judicial efficiency" and "avoiding inconsistent results between sister courts."¹ Judge Steele explained: "The presence of a batch of similar motions before the MDL Court also exposes the risk of inconsistent results that would arise were the Court to rule on the motion before it."²

3. The requested stay and extension of time are being made before the original time to Answer or otherwise respond has expired.

4. Counsel for the plaintiffs has advised that he does not oppose the requested stay of this matter.

5. Accordingly, the defendants respectfully request that this Court stay this matter pending its anticipated transfer to the United States District Court for the Northern District of Illinois by the Judicial Panel on Multidistrict Litigation. In connection therewith, the defendants request that they be provided with additional time to respond to the plaintiffs' Complaint after the anticipated transfer is completed.

Respectfully submitted,

s/ Stephen J. Bumgarner
Stephen J. Bumgarner (BUMGS2089)
sbumgarn@burr.com

Attorney for Defendants

¹ See *Thomas v. Ameriquest Mortgage Co.*, Case No. 07-0652-WS-C, 2007 WL 3287842, at * 1 (S.D. Ala. Nov. 5, 2007); *Boudin v. Residential Essentials, LLC*, Civil Action No. 07-0018-WS-C, 2007 WL 2609510 (S.D. Ala. Sept. 6, 2007); see also *Betts v. Eli Lilly & Co.*, 435 F. Supp.2d 1180, 1182 (S.D. Ala. 2006) (explaining standards considered in reviewing motion to stay).

² See *Boudin*, 2007 WL 2609510, at * 1.

Ameriquest Mortgage Company; AMC
Mortgage Services, Inc.; ACC Capital
Holdings Corporation; Citi Residential
Lending, Inc. and Citifinancial Mortgage

OF COUNSEL:

BURR & FORMAN LLP
420 North 20th Street, Suite 3400
Birmingham, Alabama 35203
Telephone: (205) 251-3000
Facsimile: (205) 458-5100

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to the following:

William H. Robertson, V
Beasley, Allen, et al.
Post Office Box 4160
Montgomery, AL 36103-4160

C. Lance Gould
Beasley, Allen, et al.
Post Office Box 4160
Montgomery, AL 36103-4160

s/ Stephen J. Bumgarner
Of Counsel

Exhibit A

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Buchalter
A Professional Law Corporation

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File Number: L7526.0683
Direct Dial Number: (213) 891-5230
Direct Facsimile Number: (213) 630-5715
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July 17, 2008

VIA FEDERAL EXPRESS

Clerk of the Panel
Judicial Panel on Multidistrict Litigation
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Room G-255, North Lobby
Washington, D.C. 20002-8004

**Re: *In re Ameriquest Mortgage Co. Mortgage Lending Practices Litigation*
MDL Docket No. 1715**

Dear Clerk of the Panel:

This letter supplements Ameriquest Mortgage Company's ("Ameriquest") January 23, 2006, February 10, 2006, March 10, 2006, March 23, 2006, April 4, 2006, April 13, 2006, April 27, 2006, June 2, 2006, June 6, 2006, June 30, 2006, July 12, 2006, July 21, 2006, August 1, 2006, August 17, 2006, September 6, 2006, September 12, 2006, September 26, 2006, October 17, 2006, November 6, 2006, November 10, 2006, December 1, 2006, December 7, 2006, January 9, 2007, February 6, 2007, February 23, 2007, March 27, 2007, April 4, 2007, April 13, 2007, April 16, 2007, May 16, 2007, June 5, 2007, July 2, 2007, July 27, 2007, August 6, 2007, August 20, 2007, September 7, 2007, September 27, 2007, October 16, 2007, October 30, 2007, November 20, 2007, December 10, 2007, December 18, 2007, January 7, 2008, January 10, 2008, January 22, 2008, February 21, 2008, April 1, 2008, April 15, 2008, April 29, 2008, April 30, 2008, June 3, 2008, June 9, 2008, June 11, 2008, June 16, 2008 and June 20, 2008 letters, which identified five hundred and sixty-four (564) potential "Tag Along" actions.

By way of background, on or about December 13, 2005, the Judicial Panel on Multidistrict Litigation (the "Panel") issued a Transfer Order, pursuant to which it granted the motion to transfer pursuant to 28 U.S.C. § 1407 (the "Motion") filed by plaintiffs in *Cheryl Williams and Duvall Naughton v. Ameriquest Mortgage Company*, Case No. 05-CV-6189 (S.D. N.Y.) ("*Williams*"). The Panel therefore ordered each identified action in the Motion transferred to the United States District Court for the Northern District of Illinois, The Honorable Marvin E. Aspen presiding (the "Transferee Court"), for pretrial proceedings.

Ameriquest opposed the Motion, and by this letter, reconfirms that it does not waive, but rather expressly preserves (for all purposes, including any appeals), all arguments raised in opposition to the Motion and all objections to the Transfer Order. These arguments and objections include, without limitation, those based on Federal and State Constitutional grounds, including but not limited to Due Process and Equal Protection under the law.

Buchalter Nemer

Clerk of the Panel
Judicial Panel on Multidistrict Litigation
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Nevertheless, pursuant to Rules 1.1, 7.4 and 7.5 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (the "Rules") Ameriquest is compelled to identify the following actions as potential "Tag Along" actions as such actions are defined by the Rules.

Also pursuant to the Rules, a copy of the potential "Tag Along" complaint is enclosed herewith in a folder labeled with the corresponding case name and action number for your convenience.

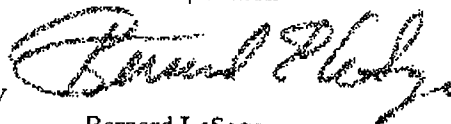
DISTRICT DIV./CIVIL ACTION NO.	CASE NAME
ALABAMA	
United States District Court for the Southern District of Alabama, Case No. 08-CV-00360	<i>Dungan, et al. v. Ameriquest Mortgage Company, et al.</i>
United States District Court for the Southern District of Alabama, Case No. 08-CV-00405	<i>Abruscato, et al. v. Ameriquest Mortgage Company, et al.</i>

Ameriquest is continuing to locate additional potential "Tag Along" actions and anticipates a further supplemental designation. As always, please feel free to contact me with any questions.

Very truly yours,

BUCHALTER NEMER
A Professional Corporation

By



Bernard LeSage